



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF MAY 11, 2006**

CALL TO ORDER: Chairperson Lydon called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Lydon, Commissioners Chan, Harrison, King, Lorenz, and Sharma

ABSENT: Chugh (excused)

STAFF PRESENT: Barbara Meerjans, Senior Planner
Joan Borger, Assistant City Attorney
Kathleen Chu, Senior Civil Engineer
Scott Plambaeck, Associate Planner
Cliff Nguyen, Planner II
Carol Anne Painter, Redevelopment Project Manager
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Miriam Shallit, Video Technician

APPROVAL OF MINUTES: Regular Minutes of April 27, 2006 were approved as submitted.

CONSENT CALENDAR

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 1, 2, 5, 7, 8 AND 9.

Commissioner Lorenz recused himself from voting on Items 1 and 2, because he did business within 300 feet of these properties.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (5-0-0-1-1) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEMS 1 AND 2:

Item 1. CASTILLEJA TRACT MAP– 48835- 48881 Kato Road – (PLN2006-00206) - to consider a Vesting Tentative Tract Map 7757, a preliminary grading plan and a private street for a 114 unit residential development in the Warm Springs Planning Area. A Mitigated Negative Declaration has been prepared and circulated for this project. (continued from 4/27 agenda)

HOLD PUBLIC HEARING;

AND

FIND THE INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION PREPARED FOR THE PROJECT HAS EVALUATED THE POTENTIAL IMPACTS THAT COULD CAUSE AN ADVERSE EFFECT, EITHER INDIVIDUALLY OR CUMULATIVELY, ON WILDLIFE RESOURCES AND FIND THAT THERE IS NO EVIDENCE THE PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND
FIND THAT THE MITIGATED NEGATIVE DECLARATION PREPARED AND CIRCULATED FOR THE PROJECT ADEQUATELY ADDRESSES POTENTIAL IMPACTS ARISING FROM THE PROPOSED PROJECT AND THE IDENTIFIED MITIGATION MEASURES WILL REDUCE POTENTIAL IMPACTS TO LESS THAN SIGNIFICANT LEVELS AND FURTHER FIND THAT THIS ACTION REFLECTS THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND
APPROVE THE MITIGATION MONITORING PLAN FOR THE PROJECT (PLN2006-00206);
AND

FIND VESTING TENTATIVE TRACT MAP 7757, PRIVATE STREET AND PRELIMINARY GRADING PLAN ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND
APPROVE VESTING TENTATIVE TRACT MAP 7757, PRIVATE STREET AND PRELIMINARY GRADING PLAN AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

- Item 2. **IRVINGTON PET HOSPITAL – 41180 Fremont Boulevard - (PLN2006-00223)** - to consider a conditional use permit application for a veterinary hospital in the Irvington Planning Area. This project also requires a variance from FMC Section 8-22132 to allow for a reduced separation from residential districts in that the parcel has both a commercial and residential zoning designation. This project is exempt from the California Environmental Quality Act (CEQA) per section 15301, Existing Facilities.

HOLD PUBLIC HEARING;

AND
FIND THAT CONDITIONAL USE PERMIT AND VARIANCE PLN2006-00223 ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15301 OF THE CEQA GUIDELINES;

AND
FIND THAT CONDITIONAL USE PERMIT AND VARIANCE PLN2006-00223 ARE IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LOCAL ECONOMY AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND
APPROVE THE VARIANCE TO ALLOW A VETERINARY SERVICE WITHIN 60 FEET OF A RESIDENTIAL LOT AS SHOWN ON EXHIBIT "A", BASED UPON FINDINGS "F" THROUGH "H" AND APPROPRIATE CONDITIONS OF APPROVAL IN EXHIBIT "B";

AND
APPROVE CONDITIONAL USE PERMIT, PLN2006-00223, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES:	5 – Chan, Harrison, King, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Chugh
RECUSE:	1 – Lorenz

IT WAS MOVED (HARRISON/LORENZ) AND UNANIMOUSLY CARRIED BY ALL PRESENT THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTIONS ON ITEM NUMBERS 5, 7, 8 AND 9.

- Item 5. MOUNTAIN MIKE'S PIZZA – 35730 Fremont Boulevard – (PLN2006-00258)** - to consider a Planned District Minor Amendment to P-66-1 (referred to Planning Commission) for the sale and on-site consumption of beer and wine at an existing pizza parlor located in the Centerville Planning Area. The underlying land use is Neighborhood Commercial, which requires a CUP for eating places with beer and wine and more than 30 seats. This project is categorically exempt from the California Environmental Quality Act (CEQA) because it is a minor alteration in land use limitations as defined in Section 15305 of the CEQA guidelines.

HOLD PUBLIC HEARING;

AND

FIND THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15305 OF THE CEQA GUIDELINES BECAUSE IT IS A USE PERMIT FOR A RETAIL FACILITY THAT CONSTITUTES A MINOR ALTERATION IN LAND USE LIMITATIONS WITHIN AN EXISTING PLANNED DISTRICT;

AND

FIND CONDITIONAL USE PERMIT PLN2006-00258 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE CHAPTER AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE GOALS AND OBJECTIVES OF THE NEIGHBORHOOD COMMERCIAL DISTRICT;

AND

APPROVE CONDITIONAL USE PERMIT PLN2006-00258, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

- Item 7. BAY STREET – 4120 & 4112 Bay Street – (PLN2006-00251)** - to consider a Finding of conformity with the General Plan for the acquisition of two properties for a public parking lot related to the Bay Street Streetscape Project in the Irvington Planning Area. A Mitigated Negative Declaration has been prepared for this project.

HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

RECOMMEND THE CITY COUNCIL ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND RECOMMEND THE USE OF A CERTIFICATE OF FEE EXEMPTION AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

ADOPT A RESOLUTION THAT PLN2006-00251 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S ADOPTED GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES AS SET FORTH IN EXHIBIT "A", HEREBY ADOPTED BY REFERENCE.

- Item 8. CONDOMINIUM CONVERSION ZTA – Citywide – (PLN2005-00312)** - to consider a zoning text amendment deleting FMC Sec. 8-22135.05 and revising FMC Sec. 8-22135

(Condominium Conversion Ordinance) and Article 21.7 (Inclusionary Housing Ordinance) applying regulations for renter protection and displacement and site and building upgrades during a condominium conversion project. A Negative Declaration has been prepared for this project.

CONTINUE THE ITEM UNTIL JUNE 8, 2006 TO ALLOW STAFF TIME TO COMPLETE REVISIONS TO THE DRAFT CONDO CONVERSION ORDINANCE.

- Item 9. VETERINARY SERVICES ZTA – Citywide - (PLN2006-00223)** – to consider a zoning text amendment to revise Fremont Municipal Code (FMC) Sec. 8-21101 and Sec. 8-21103.1 (Community Commercial District), FMC Sec 8-21301 and 8-21304 (Thoroughfare Commercial District) and FMC Sec. 8-22132 (Animal Hospital/Veterinary services) to clarify regulations related to the location of veterinary service facilities/animal hospitals and to correct minor errors. A Negative Declaration has been prepared for the zoning text amendment.

HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

RECOMMEND THE CITY COUNCIL APPROVE NEGATIVE DECLARATION AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

RECOMMEND THE CITY COUNCIL FIND THE ZONING TEXT AMENDMENT, AS SHOWN ON EXHIBIT "A," IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND LOCAL ECONOMY CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

RECOMMEND THE CITY COUNCIL FIND THAT THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THIS ZONING TEXT AMENDMENT FOR CONSISTENCY OF REVIEW OF FUTURE APPLICATIONS FOR VETERINARY SERVICES;

AND

RECOMMEND ZONING TEXT AMENDMENT PLN2006-00223 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (ZONING TEXT AMENDMENT).

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Chugh
RECUSE:	0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

Item 3. NORTHERN CALIFORNIA FIRST BAPTIST CHURCH - Technology Place – (PLN2006-00009) - to consider a Conditional Use Permit to allow the construction and use of a new 53,014 square foot religious facility, consisting of a 686 seat assembly hall, a gymnasium/multi purpose room, classrooms, and a dining room on Technology Place in the Industrial Planning Area. A Mitigated Negative Declaration has been prepared for this project.

Jerry Willis, architect, pointed out colored renderings that reflected a religious facility, but would still fit within the industrial park area. It would be constructed in two phases, with the first phase starting as soon as approved and the second phase to be built in approximately five years. He asked for questions.

Commissioner Harrison asked where the industrial building shown on the plans was actually located.

Mr. Willis replied that building was to be located on the adjacent lot after the property was split.

Commissioner Sharma asked if the renderings showed the color changes for the building that were suggested by staff.

Mr. Willis stated the colors shown were not the final selection of colors for the building.

Commissioner Lorenz asked how long the speaker had been working with the church to find a new home.

Mr. Willis said that they had been looking for a new location for approximately one and one-half years.

Commissioner Harrison asked if the gym or other facilities would be rented to others who may want to use them or would it be church, only.

Mr. Willis assumed it would depend upon city regulations.

Vice Chairperson Chan asked if the businesses next door had the church's emergency response contact information, as well as the church having theirs. Would alcoholic beverages be consumed inside the church? Would Phase 2 be constructed within five years of the date of the Conditional Use Permit?

Planner Nguyen replied that it was up to the church to provide emergency contact information to its neighbors. The Fire Department had agreed with that requirement.

Mr. Willis believed that alcoholic beverages would not be consumed inside the church. Phase 2 was expected to begin construction within five years.

Chairperson Lydon opened the public hearing.

James Son, member of the church and Fremont resident, stated that he was also a deacon of the church. A city study had found this project would not adversely impact local wildlife resources. Approval of this project would reflect the city's willingness to accommodate the expansion of a religious community and recognition of the city's changing residential demographics. This facility would provide care, sharing, comfort and love for those who entered.

Commissioner Lorenz asked how large the congregation was.

Mr. Son replied that the church consisted of approximately 300 members.

Commissioner Lorenz asked how large the congregation was hoped to be within five years.

Mr. Son answered that the church's first objective was to serve God. He was not able to estimate how many members the church might have within five years.

Sung Kyo Wee, Senior Pastor, stated that the church would provide for Fremont citizens through hope, care and love. The church's vision was to include members of all cultures and to build a bridge of diversity, unity and harmony to the many cultures that made up the modern community. They would be willing to open the gym for public use and the sanctuary for weddings and town hall meetings.

Commissioner Harrison asked staff if this project had been planned to be commercial buildings, what would the parking requirements be?

Planner Nguyen replied that for each proposed phase, the city standard would be one parking space for each 300 square feet of gross floor area. Looking at this project as a religious facility, the parking requirement would be one parking space per three seats in the sanctuary. The entire parking lot would be built with the first phase. A temporary lawn area would be used for the location of the second phase.

Commissioner Harrison calculated that approximately 200 parking spaces would be required for a commercial project, and he stated that more spaces would be required because this building was to be a church.

Planner Nguyen agreed that he was correct. The city requirement was one space per five seats, so this project would exceed the requirement.

Commissioner Harrison asked the architect what he would see if he was standing on Technology Place with City Beach to the right and where the main entrance would be located. If he were driving on Auto Mall Parkway, what would he see?

Mr. Willis replied that he would see the rendering that was displayed on the board and the main entrance would be on Technology Place. From Auto Mall Parkway, he would see either one of the top renderings displayed on the board, which would be the front of the church.

Vice Chairperson Chan asked how high the lower color would be on the building. Would all of the windows be beveled? How did he feel about the square columns versus the round columns and what material would they be made of?

Mr. Willis stated that the color would probably go up to the top of the first floor windows. All of the windows would be recessed with the corners to be beveled to allow for drainage, which was acceptable. The rectangular columns could look better, as they would also denote the entrance. The material of the columns would be the same as planned for the round columns, stainless steel.

Commissioner Lorenz asked what the distance would be from the church to the City Beach Building and from the curving walkway to City Beach.

Mr. Willis said that the distance would be approximately 50 feet. The walkway would be about 30 feet from City Beach.

Chairperson Lydon closed the public hearing.

Commissioner Lorenz asked if the city's traffic standards were based on a worst-case scenario when looking at assembly uses. Had traffic at Easter and Christmas Eve been considered?

Planner Nguyen answered that the traffic generation model showed that 112 more weekday trips and 17 fewer p.m. weekday trips could be expected, as compared to an industrial building on this site. He expected that there would be some inconvenience for those particular days.

Commissioner Lorenz noted that the intersection at Technology Place and Auto Mall Parkway had an unusual double traffic signal. He asked the purpose of designating this area as part of the Interim Study District? Had other sites within the city been identified for similar assembly uses?

Planner Nguyen stated that the two signals were coordinated to change at the same time. He promised to check the operation of the signal with Traffic and Engineering. Staff had not completed the study of the precise zoning for the Interim Study District. However, based upon the transitions occurring in this area with residential use on one side of Auto Mall Parkway and retail use on the other side, it was thought more retail, commercial and assembly uses could be allowed. In April 2005, City Council decided that the light industrial areas, as well as some of the commercial districts, could accommodate this kind of religious facility and assembly uses.

Commissioner Lorenz asked if another religious facility displaced from Kato Road (because of rezoning) had found another site.

Senior Planner Meerjans replied that the city was working with that church, but she was uncertain if they had found another site.

Commissioner Sharma stated that many of the sites on Auto Mall Parkway had remained vacant and he asked if this was one of the uses that had been decided would be appropriate for those sites.

Senior Planner Meerjans agreed that there were vacant parcels along Auto Mall Parkway. Over time, commercial uses had sprung up from I-880 to I-680 and it seemed that there was room for more of this kind of assembly use.

Planner Nguyen added that a traffic study was to be performed to evaluate the impacts if this area were to convert to commercial retail from industrial.

Commissioner Harrison asked what would happen if Phase 2 were not constructed after the five-years extension. Would they have to come back for another CUP?

Senior Planner Meerjans replied that the applicant always had the ability to amend the use permit.

Planner Nguyen stated that if Phase 2 was not constructed, the city would ask for a landscape plan for permanent landscaping.

Vice Chairperson Chan asked what the timetable was for construction.

Planner Nguyen understood that working drawings were underway for the church.

Senior Planner Meerjans answered that, typically, building plan review would take several months, construction time could take roughly one year and it could be finished at least a year from now.

Planner Nguyen stated that the church would be built as a tilt-up building, so once construction broke ground, the construction of the building would be very fast.

Commissioner Lorenz believed that this church would be an asset to the community. However, he would be very uncomfortable approving this use at this location, because the Interim Study District had not been completed. The idea was to create a retail corridor between the two freeways, and this use was not appropriate. He believed that the city's current inventory of vacant buildings, elsewhere, could provide a home for this use and other assembly uses. He was concerned about traffic impacts during a worst-case scenario. He also worried about the effect this facility could have upon future commercial land values, and he also believed that this use could have an adverse affect on future retail and office potential in this area, as it could prohibit these types of uses in the future.

Commissioner King disagreed. He was worried less about the retail and economic value of the area than he was about having a few more churches in the city, because of the quality of life issue this project would represent. A church's value could be measured by its service to young people and to the community. The building was beautifully designed; it would enhance property values; and people liked to live in a community that had a church like this. He urged the other Commissioners to support this project.

Commissioner Harrison originally felt this project was not the best use of the parcel, because of parking issues and the idea of a church in an industrial area. However, the church had been designed to fit into an industrial area; the parking would be more than adequate; this was a quality project and they should be allowed some flexibility. Building in phases was a good idea, and he hoped that the second phase would be started within five years.

Vice Chairperson Chan agreed that the church was aesthetically pleasing, and it would be an enhancement and improvement to the area. She acknowledged that the Commission had received a letter of opposition from the owner of Eternal Electronics, but no one was in attendance who was in opposition. She would support the project.

Commissioner Sharma agreed with the previous comments. It was a good project for the site. He noted that demographic changes were happening within the city and everyone should be supported. He did not believe that the commercial value of the surrounding properties would be negatively affected. He agreed that the Traffic Department needed to review the double signal on Technology Place. He would support the project.

Chairperson Lydon stated that **Commissioner Lorenz's** comments accurately reflected a person who was very concerned with this community. However, the applicant was bringing something positive to the City of Fremont and the Commission's positive vote would indicate approval and support. He encouraged the applicant to continue to work with city staff so that he would continue to have a positive experience in the city.

IT WAS MOVED (KING/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (5-1-0-1-0)
THAT THE PLANNING COMMISSION **HOLD PUBLIC HEARING;**

AND

FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND
ADOPT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM AND RECOMMEND THE USE OF A CERTIFICATE OF FEE EXEMPTION AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND
FIND CONDITIONAL USE PERMIT PLN2006-00009 IS IN CONFORMANCE WITH LAND USE POLICY 3.2 CONTAINED IN THE CITY'S EXISTING GENERAL PLAN AS DISCUSSED WITHIN THE STAFF REPORT;

AND
APPROVE CONDITIONAL USE PERMIT PLN2006-00009, AS SHOWN ON EXHIBIT "A" AND SCHEDULE OF OPERATION SHOWN ON "EXHIBIT C", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES: 5 – Chan, Harrison, King, Lydon, and Sharma
NOES: 1 – Lorenz
ABSTAIN: 0
ABSENT: 1 – Chugh
RECUSE: 0

- Item 4. **PERALTA-SUMMERHILL - 4480, 4488, and 4500 Peralta Avenue - (PLN2006-00133)** - to consider a Planned District Minor Amendment inclusive of 1) a Finding for Site Plan and Architectural Approval 2) an interpretation of allowable building height under the Centerville Specific Plan and 3) modifications to the Private Vehicle Access Way standards relating to width and pedestrian walkways and a request to consider a Vesting Tentative Map, Private Street Application, and Preliminary Grading Plan for a residential development consisting of 48 units. A Mitigated Negative Declaration has been prepared and circulated for this project.

MODIFICATION TO EXHIBIT "1" CONDITIONS OF APPROVAL FOR SITE PLAN AND ARCHITECTURAL APPROVAL:

Delete the following condition:

~~F-14 The driveway access shall have a minimum 26 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for surface type, distance, weight loads, turn radius, grades, and vertical clearance. Other mitigation's shall/may be required in addition to those listed. (CFC Sec. 902.2 as amended) The applicant shall indicate on all site plans the location of required red curbs, curb lettering and fire lane signs. This project requires all curbs to be red, lettering every 30 feet and signs every 100 feet.~~

MODIFICATION TO EXHIBIT "2" CONDITIONS OF APPROVAL FOR TENTATIVE TRACT MAP:

7. The tentative map application submitted by developer includes a *temporary construction* easement acquisition on property not owned or controlled by developer for *construction purposes* ~~private street right of way~~ ("Off-Site Construction ~~Private Street~~ Easement"). Developer acknowledges it has requested the Off-Site ~~Construction Private Street~~ Easement to be included in its project, and that such inclusion is not a City-imposed requirement. Prior to filing the final map with the City, the developer shall acquire sufficient interest ~~or right of entry or title~~ to the Off-Site ~~Construction Private Street~~ Easement ~~and the developer shall to provide the City a grant deed for public utilities and emergency vehicles over the Off-Site Private Street Easement~~. In the event the developer is unable to acquire sufficient ~~title or~~ interest in the Off-Site ~~Construction Private Street~~ Easement, developer shall file an amendment to the tentative map to

exclude the Off-Site ~~Construction Private Street~~ Easement. The developer is notified that the amendment to the tentative map is subject to review and approval of the City, which may result in revisions to the development plan. Developer agrees that City shall have no obligation to use its powers of eminent domain to acquire an interest in the Off-Site ~~Construction Private Street~~ Easement, and developer and all successors in interest waive any and all rights they may assert under Government Code Section 66462.5 to require City to exercise its power of eminent domain.

8. Off-Site Private Street ~~Easement~~ Improvements: The developer shall acquire ~~and dedicate~~ the Off-Site Construction ~~private street~~ easement for Jansen Terrace as shown on the tentative map (see condition ~~"7" "15"~~ above). The developer shall install the Off-Site Private Street improvements for Jansen Terrace, as shown on the tentative map.

Wilson Hu, Summerhill Homes, introduced other members of the team. This site had been redesignated for medium density residential use as a planned district, and this project would achieve many of the goals set forth in the Centerville Specific Plan. A combination of detached townhomes and duet units would make up the project, with a special feature of the detached townhomes that consisted of the use of the side yards. Each owner would have the use of the combined narrow side yards of his unit and his neighbor's unit, and he would give up one side yard of his unit for his neighbor's use. The living space of each townhome would be on the same grade as the private outdoor space, which, combined with the common paseos, would encourage pedestrian and neighbor interaction. This project would act as a transition between the current residential neighbors across Peralta Boulevard and the apartments at the rear of the property. Jansen Terrace would be connected in a loop. The alleys could be redesigned as through connections when the parcels to the north were developed, which would provide a seamless vehicular linkage between this project and any future project next door. This project would not be a stand-alone, walled community. A tot lot would be located near the edge of the property, which would allow it to be expanded into the open space of any future residential development next door. This project would be a good start for the rejuvenation of the rest of the neighborhood.

Commissioner Harrison asked about the sound wall, the metal fence and the pavers. Where would they be located within the project? He asked what he would see when standing on the opposite side of Peralta Boulevard and looking towards the project?

Mr. Hu replied that the sound wall would be on the north and eastern portion of the site, which was pointed out on the site plan. The fences would be the front yard fences for the residences.

Commissioner Lorenz interrupted by asking if the colored rendering showed the view that **Commissioner Harrison** was speaking of?

Mr. Hu stated that the colored rendering presented a good perception of how it would look. However, one could not really perceive how the stepped-back, third story was tucked back.

Commissioner Harrison asked if the homes directly behind the homes along Peralta Boulevard would be three stories.

Mark Rutherford, architect, stated that the duet building appeared as a three-story element. On the other 38, single-family, detached homes, the two-story windows came forward and the third story was tucked into the roof with the egress windows on the side.

Commissioner Harrison asked if the 55 lots included the tot lot and the parking, which had been added to the 48 residential lots. Would the homeowners association consist of 48 homeowners? He had been asked if the restaurant that was currently operating on the site would be allowed to continue to operate as long as possible during construction.

Mr. Hu stated that the other seven lots would be owned by the association. He was aware of the restaurant and they were working with the owner to come to an appropriate resolution.

Commissioner Harrison disclosed that he had met with **Mr. Hu** and **Mr. Tenant** several weeks ago.

Commissioner Lorenz made the same disclosure. He asked when the applicant expected to demolish the existing buildings, assuming his project was approved. He noted that the right elevation of each townhome was a very large, blank wall, and he asked if some kind of architectural detail could be added.

Mr. Hu expected to demolish and start the site work sometime near the end of this year. The intent of keeping that wall blank had to do with the side yard configuration.

Commissioner Lorenz asked if some kind of horizontal or vertical augmentation could be added to the wall.

Mr. Rutherford answered that they were considering enhancing the end elevations, the elevations that would be seen when coming into the project. He agreed that bullet-type windows could be added.

Vice Chairperson Chan's questions and the answers were as follows:

- What did the report mean where it stated that the attached units would be subdivided as condominiums?
The five duet buildings would be condominium units with the homeowners association taking care of the exterior of the buildings.
- Where, exactly, would the white and metal fences be located?
Along the front of the front yard to demark the private from public space. Along the paseo, for example, one would see a residents' front yard fence, along with the units facing Peralta Boulevard.
- What had been decided about the design of the garage doors, as noted on pages 7 and 10?
They would continue to work with staff to provide something appropriate, so that the alleyways were not monotonous.
- What about the parking? The available parking seemed pretty full when she recently drove by the area.
They were comfortable with the planned parking, which met the city's parking requirements.
Associate Planner Plambaeck added that the Centerville Specific Plan allowed guest parking to be counted for the units facing onto Peralta Boulevard, if on street parking was allowed on both sides of the street. In this case, there would be about six spaces available in front of the units. He guessed that some of the vehicles she had seen parked on the street were vehicles for sale by a nearby used car lot.

Commissioner Sharma asked when Morgan Commons was connected, would it become a loop to Jansen Terrace from Peralta Boulevard in and Peralta Boulevard out. He asked why that portion of the street would not be named "loop."

Mr. Hu replied that Jansen Terrace was one dead-end street and the loop would be completed as part of the project. He understood that the street had to be called "common" because it connected to a public street.

Senior Planner Meerjans agreed with the applicant. The designations of streets had to do with alerting public safety staff as which streets were private and which were public.

Commissioner Lorenz asked **Chairperson Lydon** for his opinion.

Chairperson Lydon agreed with **Senior Planner Meerjans**.

A discussion ensued concerning using “loop” as a street designation. A public street could be named “loop” but not a private street.

Chairperson Lydon opened the public hearing.

Commissioner Harrison asked staff about the Peralta Boulevard street improvements, and how would the improvements be funded.

Associate Planner Plambaeck replied that a median from Jansen Terrace up to Dusterberry Way would be added, which could be seen on the preliminary drawing on the board. It showed a lane in each direction, with left turn pockets, and a bike lane, along with the median. The current four lanes would be reduced to two lanes.

Kathleen Chu, Senior Civil Engineer, stated that the applicant would be responsible for building the median.

Commissioner Harrison asked if there had been a change in philosophy in the Centerville Specific Plan. He noted that he lived in a Summerhill home and was very pleased with it. Would the wall allow a new development to connect with this development?

Associate Planner Plambaeck agreed that there seemed to be an internal inconsistency within the Plan, and it had envisioned this area to eventually become multi-family development. The street would be required to go through and would be recorded on the map. The two streets would still be private.

Commissioner Lorenz asked why the three Mexican Fan Palms were to be moved rather than just removing them. The palms were not indigenous to the area, and he felt it would be better to plant six large box trees in their place that were more appropriate at less cost to the developer.

Associate Planner Plambaeck replied that the trees had been identified as trees that could be easily saved and moved. The city’s landscape had agreed with the report and believed the fan palms would add to the development.

Commissioner Harrison asked if findings needed to be spelled out regarding Recommendation No. 4. A Tentative Map condition spoke to grounds maintenance. He wanted to make sure that the playground equipment would be maintained. He suggested the wording be changed on page 506, Tentative Map area, “. . . read the constitution and the bylaws of the . . .”

Assistant City Attorney Borger replied that the recommendation was adequate.

Mr. Hu stated that they were happy to save the Mexican Fan Palm trees and were just as happy to replace them with large trees. He understood they were healthy and should survive two moves.

Chairperson Lydon closed the public hearing.

Commissioner Sharma wondered about “playing with city policy” and if it could impact the bigger issue. He would support the project.

Vice Chairperson Chan stated that she was very happy with this particular project. It was very pleasing, aesthetically. It certainly gave the feeling of neighborhood. She especially liked that it would not be a walled-off enclave. She would vote to support the project.

Commissioner Harrison stated that it was a great project with unique architecture and it would improve the area. He liked the forward thinking concerning future adjacent development. It would definitely improve the area and he would be happy to support the project.

Commissioner Lorenz agreed with all comments made by the other Commissioners. He would like to see some mitigation with large trees planted along the Peralta Boulevard street front and removal of the palms.

Assistant City Attorney Borger advised that relocating the palms would be consistent with the city ordinance and it probably would not be a good idea to try to change the condition. However, staff could take the comments under consideration.

DON'T FORGET ADDING RIGHT-HAND BUILDING ARTICULATION

IT WAS MOVED (KING/HARRISON (first) or LORENZ/CHAN (after discussion) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

ADOPT EXHIBIT “C” MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN, RECOMMEND THE USE OF A CERTIFICATE OF FEE EXEMPTION, AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

AND

FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

FIND THE PROJECT IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN AND THE CENTERVILLE SPECIFIC PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S HOUSING AND LAND USE CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT ALSO CONFORMS TO THE GOALS, OBJECTIVES, AND DESIGN CRITERIA OF THE CENTERVILLE SPECIFIC PLAN;

AND

FIND THAT THE PROPOSED ARCHITECTURE IS SUPERIOR QUALITY AND WILL ENHANCE THE SCENIC QUALITIES AND COMPLEMENT THE CHARACTER OF THE AREA AND BE AN ATTRACTIVE FEATURE FOR FREMONT AND THE CENTERVILLE PLANNING AREA. IN ADDITION FIND THAT THE SITE PLAN HAS PROVIDED FOR PEDESTRIAN CONNECTIONS TO NEARBY FEATURES AS REQUIRED BY THE PLANNED DISTRICT;

AND

APPROVE PLN2006-00133, AS PER EXHIBIT “A” (SITE PLAN, ELEVATIONS, FLOOR PLANS AND LANDSCAPE PLANS) AND EXHIBIT “D” (COLOR BOARD) EITHER FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE, OR THE PROJECT AS PROPOSED JUSTIFIES THE EXCEPTIONS (REDUCTIONS OF THE WIDTH OF THE PVAWS, SIDEWALK WAIVER, CURB AND

GUTTER DESIGN AND DENSITY REQUIREMENTS) AS SET FORTH IN THE STAFF REPORT;

AND

APPROVE EXHIBIT “B”, (PRIVATE STREET AND TENTATIVE MAP 7719 AND PRELIMINARY GRADING PLAN)

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Chugh
RECUSE:	0

Chairperson Lydon called for a recess at 8:40 p.m.

Chairperson Lydon called the meeting back to order at 8:55 p.m.

- Item 6. IRVINGTON CONCEPT PLAN AMENDMENT – Citywide – (PLN2006-00250)** - to consider an Amendment to the Irvington Concept Plan specifically modifying the “Chapter 3: Development Concepts, A. Bay Street/Monument Center” section to incorporate design changes to the Bay Street schematic design concept. A Mitigated Negative Declaration has been prepared for this project.

Carol Ann Painter, Redevelopment Project Manager for the Irvington District, stated that the community and the city were excited about this project. She displayed the plan approved in 2004 by City Council. The objective was to provide a public parking facility and to intensify and promote new private development on the parcels that front along Bay Street, in particular, which would create a pedestrian oriented, mixed-use environment. Since then, the funding grant for 3.2 million dollars through MTC was not awarded and the negotiations with the Post Office for access to the proposed parking lot were unsuccessful. In February 2006 City Council directed the agency to initiate a community involvement process, which resulted in the proposed alternative. She described the approved plan and the proposed changes, as follows:

- *Parking was to provide support for the existing businesses and to allow intensification of use, which would originally have been accessed through the Post Office site.*
Three parcels, owned by the Mattas family and which included the original parcel planned for parking, would be purchased. Those parcels would front onto Bay Street. The city would own the land, rather than depending on another agency or property owner for access.

The original plan was to acquire right-of-way from property owners on the south side of Bay Street to provide for diagonal parking.

The cost of the project would be reduced by not having to purchase the right-of-way requirements. Diagonal parking was eliminated in favor of parallel parking, which would reduce the required land for the street, itself, by 8,000 square feet and would be a significant cost reduction of approximately 500,000 dollars. Parking spaces would be reduced from 90 spaces in the original plan to 82 spaces in the proposed plan.

- *Original plan proposed streetscape improvements for just Bay Street.*

The proposed plan would extend the improvements within the existing right-of-way to Papazian and Trimboli Ways.

- *Original plan would have changed circulation pattern, particularly from Fremont Boulevard to Trimboli Way, and would have required a turnaround on private property.*
Proposed plan would not change the existing circulation pattern, which was one-way from Fremont Boulevard to a traffic circle and two-ways from Trimboli Way to the circle.
- *Proposed plan would not change the types of street trees, street furniture and those kinds of amenities that had been decided upon in the original plan.*

Redevelopment Manager Painter continued with explaining that, if approved tonight, the City Council was scheduled to hear this plan on May 23rd. Any zoning changes would come back to the Commission sometime in November or December.

Senior Planner Meerjans added that this project had been reviewed by HARB on May 4th, and they were very supportive. Their only concern was that the different lots would not redevelop at the same time and, for some time, there would be varying setbacks. As new buildings were constructed, they would be moved up to the sidewalk.

Commissioner King asked why traffic was one-way for one-half a block and it was proposed to be kept that way. He did not understand why it was not going to be changed to be more like a standard street.

Senior Planner Meerjans replied that the five corners intersection was one of the highest volume traffic intersections in the city. Because of the five streets coming in at this location, the Traffic Department had recommended that the traffic be one-way at this short section of Bay Street.

Project Manager Painter pointed out that the physical ability to perform left hand ingress or egress was difficult at that location and provided a potential for traffic accidents.

Commissioner King asked, when traveling toward Fremont Boulevard, was only a right-hand turn available at the roundabout where the street turned to one-way.

Senior Planner Meerjans stated that one would have to make a right-hand turn into the Monument Center parking lot.

Project Manager Painter added that four properties on the north side of the street needed access.

Commissioner Sharma stated that, in his experience, it was very safe to turn into the Post Office parking lot from that portion of Bay Street and to access the street at that location. Would parking now be adequate, or would it still be short?

Project Manager Painter replied that 82 spaces would be added, with more spaces added in the parking lot and less on the street, due to the parallel versus the diagonal parking. Consequently, costs would be less and the aesthetics were perceived to be better because a narrower street would be more pedestrian friendly compared to the street width required for diagonal parking.

Commissioner Sharma asked if it would be possible to construct a multistory parking structure, if more parking was needed in the future.

Project Manager Painter answered that a multistoried parking facility would not increase parking space very much because most of the additional spaces would be taken up by ramps and it would be expensive to build.

Chairperson Lydon opened the public hearing.

Dr. S.S. Khalsa, property and business owner on Bay Street, stated that he was excited to see the proposed improvements, as were the other local property owners. His concern was that no close access would be available for his chiropractic patients to the front door of his clinic with this plan. Patients with low back pain could not walk far and the proposed plan would eliminate the curb cut and, thus, eliminate access to his current parking. It would adversely affect his patients and, in turn, adversely affect his business. He asked that the modification allow a curb cut onto his property.

Vice Chairperson Chan wondered how many vehicles could park in front of his office. Did his staff use any of those parking spaces? Did his patients usually drive themselves or were they dropped off? Did he believe that it would be a hardship for those patients to walk from the proposed parking lot to his office?

Dr. Khalsa replied that five cars could fit easily. Yes, he and his staff of one or two park in those spaces. Two to three parking spaces were usually available. He estimated approximately 90 percent of his patients drove themselves and used the onsite parking spaces. Yes, he believed it would be difficult for his patients with severe lower back pain to walk any distance to his office.

Chairperson Lydon asked if the speaker was saying that his patients could drive, but they could not walk.

Dr. Khalsa said that was usually the case.

Chairperson Lydon asked if staff agreed that five parking spaces were available in front of the speaker's business.

Project Manager Painter stated that a number of parking spaces on a number of these sites were not legally configured. Many of the parking spaces overlapped onto the public sidewalk, which created some difficulties. She estimated that three spaces were available on the speaker's property, as she had never seen five vehicles parked there. One particular solution could be to label the parallel parking space in front of the speaker's business as handicapped, which would provide a dedicated parking space for those patients who needed a space that would be as close as possible.

Dr. Khalsa responded that a handicapped parking space would not serve his patients very well, because it would mean that they would need a blue handicapped sticker, and that space would be lost to anyone who was not handicapped.

Commissioner King commented that he had spinal stenosis and had used chiropractors for years. On difficult days, he was not able to walk further than from in front of the clinic, and if a space was not available, he would not go to his appointment. It was impossible to walk even a half-block under those conditions. He had a handicapped sticker, which took months to obtain. The city had an obligation to support this businessman who had been in this location for a number of years. If this plan were adopted, would those parking spaces no longer be available?

Dr. Khalsa said that he was correct. The access to his parking would be eliminated by the curb that would be constructed across his existing driveway.

Commissioner Sharma asked the distance from the proposed parking spaces and the speaker's clinic. Was the speaker's request something the Commission could decide?

Project Manager Painter stated that the distance would be sixteen feet. She clarified that the original, existing plan had not provided any curb cuts along the south side of Bay Street, and that had already been approved. The proposed amendment would not change that. The speaker was proposing an addition to the proposed amendment to allow him to have a curb cut, which was not currently allowed in the approved plan. Staff did not recommend the addition of a curb cut, because of the precedent potential. Curb cuts would eliminate the parallel parking along Bay Street, which would jeopardize the overall concept for the plan for the neighborhood. Staff expected that many of the properties would develop a few years after the implementation of the streetscape plan, which was its purpose. The Redevelopment Agency had a Façade Improvement Grant Program and staff hoped to work with the individual property owners to improve their drainage problems and replace the concrete with landscaping.

Commissioner Sharma asked if the Commission could approve a curb cut that would allow access to the parking near the speaker's clinic.

Assistant City Attorney Borger said that the matter before the Commission was to recommend to City Council whether to accept the Plan. It was appropriate to formulate a response to the public, within the recommendation.

Commissioner King asked if the issues before the Commission had nothing to do with what had already been approved by City Council in the past. Could the Commission legally make a recommendation to City Council concerning the retention of the curb cut on Dr. Khalsa's property, along with the recommended recommendations made by staff? He asked if the city would pay for the landscaping of his cement slab.

Senior Planner Meerjans stated that staff was not proposing a change to that portion of the approved plan. He was correct that the curb cut could be recommended to City Council.

Project Manager Painter replied that the city's grant program could help with landscaping the cement frontages on all of the properties. Staff would work with the property owner and he would have to agree to a landscape plan, as well.

Commissioner King asked when the present curb cut onto Dr. Khalsa's property would be eliminated under the current plan. If he came into the city with a landscape plan, would the city give him a grant to do so?

Project Manager Painter stated that the construction was scheduled for the end of 2007 to 2008. If staff and Dr. Khalsa could come to agreement concerning the landscaping, it could likely be no money out of his pocket.

Chairperson Lydon asked if a curb cut was an indentation of the existing curb line.

Project Manager Painter replied that a curb cut was a driveway, but, in this instance, it provided access to the large area of concrete in front of a house rather than access to a garage.

Vice Chairperson Chan asked if handicapped parking would be part of any of the 82 parking spaces in the proposed plan.

Project Manager Painter answered that handicapped parking was not required along public streets, although it was possible. Two handicapped parking spaces were planned within the public parking lot.

Commissioner King asked Dr. Khalsa how long he had practiced at this location. Had he been aware of the original plan that had eliminated the curb cut and approved by City Council two years ago? Had he received a notice that this issue was to be addressed?

Dr. Khalsa said that he had been at this location for more than six years. He was not aware that eliminating the curb cuts was part of the plan, at the time. He recalled receiving notice about meetings concerning the redevelopment plan and he had attended some of them. However, he did not know the solid curb was to be constructed along the entire south side of the street.

Chairperson Lydon asked the speakers to provide only new information and not take time to reiterate what had been said before them.

Mark Hirsch, with offices in the Rick Marks Center, stated that he was a fourth generation Fremont resident. He also had been a member of the task force who developed the Irvington Concept Plan. This plan was an improved version of the original plan. It was hoped that this redevelopment plan would act as a catalyst for development to occur within the area. Papazian Way and Triboli Way were major ingress and egresses to Bay Street and including those streets would be a huge benefit. A certain number of spaces in the new "Matta" parking lot would be allocated for Bay Street residents who might need overnight parking. This plan would do a good job of integrating the improvement to the area; Bay Street would be more pedestrian friendly; the project would help the current businesses by cleaning up the area and drawing more people into the area; and it would provide a good incentive for him and the other property owners in the area to redevelop their properties. The one-way traffic coming off of Fremont Boulevard had been that way for many years, all of his life. The two-way traffic up to that portion of the street allowed access to the back of his family's property, the Odd Fellows Lodge and the old Hirsch Building next to the park. The structures with curb cuts were originally little homes. They now housed businesses in the front and still have residences in the back. The front yards consisted of concrete and provided parking. The solid curb would restore parking back on the street and get the parking off the front of the properties. He expected that some special arrangement would be made with Dr. Khalsa for his patients. He stood behind the plan as proposed and stated that it would be "key to maintaining Irvington as the center of the universe."

Commissioner Lorenz corrected Mr. Hirsch, because Centerville was the center of the universe.

Vice Chairperson Chan asked for clarification regarding the overnight parking and how many businesses might be involved. She asked if he had any suggestions about how to solve Dr. Khalsa's problem.

Mr. Hirsch stated that some of the homes/businesses had some type of residential unit in the rear and their parking was usually on the property. A permit would be allocated to those property owners to allow them to park one vehicle in the public parking lot overnight. Overnight parking on Bay Street was generally permitted. He estimated that there would be eight businesses. He agreed that providing a parking space in front of his clinic would be best. It would need to be enforceable so that it was not abused by others. This was a new issue to him.

Commissioner Harrison asked if the outcome of the meetings had been very supportive of this proposed plan.

Mr. Hirsch knew that three meetings with the Irvington Business Association, at least two general public meetings, one-on-one meetings with the individual property owners and staff had been held. Improvements to the plan had been made because of those meetings.

Chairperson Lydon asked if those former homes on Bay Street had access to the back of their lots, such as, Dr. Khalsa's building.

Mr. Hirsch stated that another structure was located behind Dr. Khalsa's building, so he had no other access other than that from Bay Street.

Stephen Baca, who lived within walking distance of Bay Street, agreed with everything the previous speaker had said. It was a wonderful project and he was grateful for the city's efforts. He had been involved with taking a survey a few weeks ago, and one of the questions asked was what the respondents liked best about living in the City of Fremont. Every one of the respondents on Bay Street stated that they liked the walking distance to parks and shopping. He believed that diagonal parking and curb cuts had a negative impact on the pedestrian friendliness of the street. He strongly supported approval of the project.

Susan Garcia, owner of Blue Agavé of Pearl's, stated that she and her husband were the new owners and they offered was high-end Mexican cuisine, which was a different concept from the original Pearl's. They had purchased the property because of the excitement of this project and they had reviewed it before they made their offer. She believed this project would revitalize Bay Street, as it was the same kind of project that had done the same thing for downtown Pleasanton, where they also owned property.

Commissioner King asked what Pearl's was now called.

Ms. Garcia replied that it was called Blue Agavé at Pearl's and the continental cuisine was gone.

Vice Chairperson Chan stated that she had eaten at Blue Agavé at Pearl's and it was very good.

Commissioner Sharma asked if the speaker believed the curb cut could be negative to the general concept of the project.

Ms. Garcia felt that the good of the community should be considered. She expected that all of the community properties would improve in value, which would, in turn, attract other businesses to the community.

Roland Willits, of the Willits Center, stated that he supported the project and looked forward to the improvements eventually expanding to his area.

George Matta stated that he was the property owner where the proposed parking lot would be located. He supported the new design and noted that he had been part of the steering committee for the original design that was approved by City Council. Many community meetings were held and no curb cuts had been considered. Curb cuts would reduce parking and defeat the purpose of a pedestrian-oriented street. He believed that this project would enhance the property values of every property in the area.

Todd Cramer stated that he had bought the building at 4032 Bay Street with two other partners and after renovating it, they had their offices there. They strongly supported everything that had been said.

Ed Pentaleri stated that he had been involved with this project since mid-2003 and had also been on the steering committee for the original plan. This process had been a model for community outreach by city staff and they had done an outstanding job. From the beginning the goal was to attract more intense mixed-use development in this core portion of the Irvington District and this plan would attract that investment. He recalled that Dr. Khalsa had been a participant of many of the meetings and curb cuts had never been part of any of the

original plans. He was strongly in favor of this plan as presented to the Commission, which was not meant to minimize the impact that Dr. Khalsa perceived that it would have on his business.

Commissioner Sharma thanked the speaker for the credit he had given to staff. He agreed that this project represented a great collaboration between staff and the community.

Farouk Mattar, owner of two Bay Street properties on the corner of Trimboli, stated that he had been involved with this process for many years. One of the reasons for this project was to clean up the current onsite parking. In the 1980s he had wanted to expand his store by 200 square feet and he was denied his request, because he had parking for only two vehicles. Every property owner will lose the onsite parking. Everyone. Many community meetings had been held when the original project was being created, and it was known that no curb cuts would be allowed on the street. He wondered why Dr. Khalsa had not brought up his concern a long time ago. He supported the project with one caveat: he suspected that the traffic circle would not serve any purpose.

Lila Bringham, Bay Street property owner, stated that Mission San Jose was the spirit of the universe. She gave a history of Timothy Rix, who, eventually, settled in Irvington and became the Postmaster. The Rix family had owned most of the property that had been discussed at this hearing, from the Monument to Grimmer Boulevard. She and her husband had bought his property and house in 1980 and they completely restored the house in 1989. People used to walk into the house, thinking that it was a city museum. In 1994 the house was converted to commercial use. This building was on the only property on Bay Street with a lawn. Parking had always been a problem. She had hoped that the property owners along Bay Street would donate a portion of their property for the diagonal parking. However, she understood that they had wanted to sell it to the city, which was why the diagonal parking was no longer an option. Curb cuts would not allow a main street look, with all buildings located up close to the sidewalk, and very large commercial buildings would be allowed to be built with very favorable FARs. All of the property owners would see their properties go up in value. One property owner's issue should not take precedent over what would be best for everyone else and the main street concept.

Project Manager Painter asked for questions from the Commission, as the speakers had done a good job of describing the project and their interest in moving it forward.

Chairperson Lydon closed the public hearing.

Commissioner Lorenz asked for elaboration on Mr. Mattar's comments regarding two vehicles currently allowed on each property, as opposed to the five vehicles that parked on Dr. Khalsa's property. Were these five automobiles actually parking on the public sidewalk?

Project Manager Painter replied that each lot was different. A legal parking space was 9 feet by 18 feet and the front setback area on all of these properties was 16 feet from the back of the sidewalk to the face of the building, so some autos were hanging over the sidewalk. Mothers with children in strollers actually had to go out into the street to get around the autos that were parked on the public sidewalk.

Vice Chairperson Chan had the following questions and the answers were as follows:

- Did Dr. Khalsa reside at the back of his clinic?
He had a residential unit at the back of his building and he resided there.
- Would Dr. Khalsa be a recipient of a residential parking permit?
Eight residential units along Bay Street would be issued one permit for each property and the holder of that permit would have the right to park 24/7 throughout the

neighborhood, as well as, in the parking lot where parking would be prohibited from about midnight to about 6:00 a.m.

- Has anyone else objected to losing the parking in front of his or her property?
She had not heard any objections to the loss of onsite parking.
- Concerning page of 5 of 7 of the Redevelopment Plan Conformance, was that language verbatim? She wondered why “. . . workers in the industrial and other areas of Fremont” had been included.
She agreed that a little editing could be done.
Senior Planner Meerjans stated that original studies showed Irvington was close enough to attract industrial workers during lunchtime.

Commissioner Sharma asked the possibility of the doctor having a handicapped space in front of his clinic.

Project Manager Painter believed that it was feasible and it had been discussed with the Police Department. If he would like to have a handicapped space, it could be done. It would not be a substantive change to the plan.

Chairperson Lydon asked how far the doctor's patients would have to walk from that space.

Project Manager Painter replied that the distance would be 16 feet.

Commissioner Harrison stated that anything that could be done for the doctor was great, as that was a public street and the city was being more than generous.

Commissioner Lorenz asked the doctor if a designated handicapped space would be a detriment to his business.

Dr. Khalsa agreed that having the handicapped zone in front of his office would be a detriment, and he would not support it. He again requested a curb cut to access his existing onsite parking.

Commissioner Harrison liked the plan. As one of the speakers said, everyone would suffer the loss of onsite parking, but the street would be better because of it.

Chairperson Lydon commented that it was rare to have approximately one dozen people interested in speaking on an item and it was even more rare to have most of them supporting staff recommendation. It was also rare that the 90 percent of the speakers were hands-on people, Fremont residents with interest in their property and interest in their city. A rare chemistry that would hold the fabric of that area together.

IT WAS MOVED (HARRISON/SHARMA) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1-0) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND THE CITY COUNCIL FIND THE INITIAL STUDY HAS EVALUATED THE POTENTIAL FOR THIS PROJECT TO CAUSE AN ADVERSE EFFECT -- EITHER INDIVIDUALLY OR CUMULATIVELY -- ON WILDLIFE RESOURCES. THERE IS NO EVIDENCE THE PROPOSED PROJECT WOULD HAVE ANY POTENTIAL FOR ADVERSE EFFECT ON WILDLIFE RESOURCES;

AND

RECOMMEND THE CITY COUNCIL ADOPT THE DRAFT MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PLAN AND RECOMMEND THE USE OF A CERTIFICATE OF FEE EXEMPTION AND FIND THESE ACTIONS REFLECT THE INDEPENDENT JUDGMENT OF THE CITY OF FREMONT;

**AND
RECOMMEND TO CITY COUNCIL APPROVAL OF THE IRVINGTON CONCEPT PLAN
AMENDMENT (EXHIBIT "A" & "B") AND FORWARD SPECIFIC RECOMMENDATIONS, IF
ANY.**

The motion carried by the following vote:

AYES:	6 – Chan, Harrison, King, Lorenz, Lydon, and Sharma
NOES:	0
ABSTAIN:	0
ABSENT:	1 – Chugh
RECUSE:	0

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.

None.

- Information from Commission: Commission members may report on matters of interest.

Commissioner Lorenz stated that Planning Commission royalty had entered the chambers at one point, and he wished to acknowledge her, former Commissioner Cyndy Mozzetti.

Vice Chairperson Chan asked when the next meeting would be held.

Senior Planner Meerjans replied that the next meeting would be held on May 25th.

Vice Chairperson Chan announced that she would not be present for that meeting.

Commissioner King also announced that he would be absent from the meeting.

Meeting adjourned at 10:15 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Barbara Meerjans, Secretary
Planning Commission